

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOSE R. OCASIO,

Plaintiff,

v.

NEW YORK STATE, STATE UNIVERISTY OF  
NEW YORK, MOHAWK VALLEY  
COMMUNITY COLLEGE,

**STIPULATION AND ORDER OF  
VOLUNTARY DISMISSAL  
PURSUANT TO FRCP 41(A)**

Civ. Case No. 20-cv-1355  
(GTS/ATB)

Defendants.

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This Stipulation of Dismissal and Discontinuance under Federal R. Civ. P. 41(a) is made by and between the Plaintiff, Jose Ocasio (“Plaintiff”), by and through his attorney James D. Hartt, and the Defendants, the State of New York and the State University of New York (“SUNY”), by and through their attorney, Letitia James, Attorney General of the State of New York, Melissa A. Latino, Assistant Attorney General of Counsel, that:

**WHEREFORE**, the Plaintiff having commenced an action pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C.S. §§ 2000e, et seq.) and the New York State Human Rights Law (N.Y. Exec. L., Article 15, §§ 290, et seq.), asserting claims of retaliation and discrimination during his employment as a welding instructor at Mohawk Valley Community College (hereinafter referred to as the “action”); and

**WHEREFORE**, Defendants, the State of New York and SUNY, by and through their attorney, Melissa A. Latino, Assistant Attorney General of Counsel, having moved to dismiss the action pursuant to Fed. R. Civ. P. 12(b) for lack of subject matter jurisdiction, personal jurisdiction,

and failure to state a cause of action primarily on the grounds that the State of New York and SUNY are not proper parties to the action as Mohawk Valley Community College is not a part of SUNY, and SUNY has Eleventh Amendment Immunity from such lawsuit; and

**WHEREFORE**, the Plaintiff and the Defendants, the State of New York and SUNY, having now agreed to the dismissal of said Defendants from the action; and

**WHEREAS**, no party hereto is an infant or incompetent person for whom a committee has been appointed, and no person not a party has an interest in the subject matter of the action; it is hereby

**STIPULATED AND AGREED**, by and between the Plaintiff and the Defendants, the State of New York and SUNY, pursuant to Rule 41(a) of the Fed. R. Civ. P., that the State of New York and SUNY shall be dismissed from the action *with prejudice* and without any damages or costs against either party, and that the Plaintiff forever discharges and unconditionally releases Defendants, the State of New York and SUNY, and any of their subdivisions, divisions, affiliates, insurers, successors, assigns, and former, current, or future officers, directors, trustees, or employees, agents, assignees, or private contractors, in their individual and representative capacities (collectively, the “Releasees”), of any and all claims, demands, or causes of actions, including any for attorneys’ fees, whether known or unknown, now existing or hereafter arising, whether presently asserted or not, from the beginning of the world through the date on which Plaintiff executes this Stipulation, which relate in any way to the subject matter of this action or Plaintiff’s employment with Mohawk Valley Community College, and further agrees to discontinue and or not to commence or to pursue in any court, arbitration or administrative proceeding, any litigation or claims against the Releasees pertaining to his employment with

Mohawk Valley Community College, or the underlying facts, circumstances or incidents that gave rise to the aforementioned action.

Dated: Albany, New York  
December 11, 2020

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Defendants SUNY and the State of  
New York  
The Capitol  
Albany, New York 12224-0341

BY:

*S / Melissa A. Latino*  
Melissa A. Latino  
Assistant Attorney General, of Counsel  
Bar Roll No. 511162  
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Dated: December 11, 2020

*James D. Hartt*  
James D. Hartt, Esq.  
Attorney for Plaintiff Jose Ocasio  
Bar Roll No. 516131  
6 North Main Street, Suite 200 F  
Fairport, New York 14450

\* SO-ORDERED:

*Glenn T. Suddaby*  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge

Dated: December 14, 2020

\*The motion to dismiss (Dkt. No. 8) filed by New York State University, State University of New York is deemed moot in light of this Stipulation.